REMARKS

I. General

Claims 1-46 are pending in the present application. The present Office Action (mailed January 9, 2008) raises only the following ground of rejection for claims 1-46:

- Claims 1-46 are rejected as being unpatentable on the ground of provisional obviousness-type double patenting over claims 1-52 of co-pending U.S. Patent Application Serial No. 10/727,184 ("the *'184 Application*").

Applicant respectfully traverses the outstanding claim rejections raised in the current Office Action, and requests reconsideration and withdrawal thereof in light of the remarks presented herein.

II. Provisional Obviousness-type Double Patenting Rejections

Claims 1-46 are rejected as being unpatentable on the ground of provisional obviousness-type double patenting over claims 1-52 of the *'184 Application*. Applicant respectfully submits that the rejection should be withdrawn to allow the present application to advance to allowance for the reasons discussed below.

First, the Examiner has failed to establish a prima facie case to support the grounds of rejection. An obviousness-type double patenting rejection should make clear the differences between the inventions defined by the conflicting claims. Importantly, the rejection should also explain the reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim at issue would have been an obvious variation of the invention defined in a claim in the patent. M.P.E.P. § 804(II)(B)(1).

In this case, Applicant respectfully points out that the Examiner has not articulated sufficient reasoning why a person of ordinary skill in the art would conclude that the pending claims are an obvious variation of the claims of the *'184 Application*. *See Office Action* of

January 9, 2008 at pg. 3. Therefore, the Examiner has not properly established a prima facie case of obviousness-type double patenting.

For instance, in support of the double patenting rejection, the Examiner merely asserts on page 3 of the January 9, 2008 Office Action:

> Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations of claims 1-46 of the instant application are similarly claimed in claims 1-52 of application no. 10/727184.

This is merely a conclusory statement that the claims of the instant application are not patentably distinct from the "similarly claimed" claims of the '184 Application. This fails to provide any of the factors set forth in the United States Supreme Court in *Graham v. John Deere and Co.*, 383 U.S. 1 (1966) for evaluating obviousness. Further, the Examiner's conclusory assertion fails to articulate any reasoning why a person of ordinary skill in the art would conclude that the pending claims are an obvious variation of the claims of the *'184 Application*.

Thus, for at least this reason, the rejection should be withdrawn, or alternatively the rejection should be presented in a new non-final Office Action in which the Examiner establishes a prima facie case for the rejection to afford Applicant a full and fair opportunity to respond.

Secondly, it appears that because the provisional double patenting rejection is the only issue remaining in the present application, the rejection should be withdrawn to allow the present application to issue without requiring a terminal disclaimer. For instance, M.P.E.P. §804(I)(B)(1) explains:

> If a "provisional" nonstatutory obviousness-type double patenting (ODP) rejetcion is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer.

Here, the present application and the *'184 Application* were concurrently filed. M.P.E.P. §804(I)(B)(1) further explains:

> If both applications are filed on the same day, the examiner should determine which application claims the base invention and which application

> claims the improvement (added limitations). The ODP rejection in the base application can be withdrawn without a terminal disclaimer, while the ODP rejection in the improvement application cannot be withdrawn without a terminal disclaimer.

The final scope of the claims of the '184 Application has not yet been determined (a first Office Action has not even been received yet for the '184 Application), and the claims of the present application and the '184 Application appear sufficiently distinct that it is difficult to clearly identify which invention might be considered a "base" invention. However, claim 1 of the '184 Application recites in part "A range conversion method comprising: ... identifying one or more data fields as a range-based data field." The claims of the present application do not require any such range conversion or range-based data fields.

It appears that the Examiner may choose to withdraw the provisional obviousness-type double patenting rejection for the present application, and allow any such obviousness-type double patenting issues that may persist in the claims of the *'184 Application* be resolved during prosecution of that application.

For the reasons above, Applicant respectfully requests that the rejection of claims 1-46 be withdrawn to allow the present application to advance to allowance.

III. Conclusion

In view of the above, Applicant believes the pending application is in condition for allowance.

No fee is believed to be due for this response. However, if any fee is due, please charge Deposit Account No. 50-3948, under Order No. 66729/P029US/10613663 from which the undersigned is authorized to draw.

Dated: April 9, 2008

Respectfully submitted,

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4).

Dated: April 9, 2008

Signature: Donna Forbit
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